

MINUTES
BOARD OF SUPERVISORS
COUNTY OF YORK

Adjourned Meeting
February 12, 2002

6:00 p.m.

Meeting Convened. An Adjourned Meeting of the York County Board of Supervisors was called to order at 6:03 p.m., Tuesday, February 12, 2002, in the East Room, York Hall, by Chairman Donald E. Wiggins.

Attendance. The following members of the Board of Supervisors were present: Walter C. Zarembo, Sheila S. Noll, Donald E. Wiggins, James S. Burgett, and Thomas G. Shepperd.

Also in attendance were James O. McReynolds, County Administrator; and James E. Barnett, County Attorney.

SALE OF BP AMOCO (Not on Agenda)

Chairman Wiggins announced that the Yorktown BP Amoco Refinery had been sold to Giant Industries, Inc. He stated he and Mr. Burgett had met with Giant's officials, and none of the current employees will be laid off as a result of the sale, and it will be business as usual.

WORK SESSION

LAND USE PROGRAM

Chairman Wiggins noted that Mr. Shepperd had requested that this topic be brought to a work session. He indicated all of the Board members spent many hours investigating the subject, and he found he was not aware of all the implications of the Land Use Program

Mr. McReynolds made a brief presentation explaining the purpose of the Land Use Program and its components. He stated the Code of Virginia permits localities with a Comprehensive Plan to provide for special assessments based on use value rather than market value. The four categories that are permitted are agriculture, forestry, horticulture, and open space; and York County has eliminated open space and forestry from its program. He stated the program is intended to encourage preservation and proper use of real estate, conserve natural resources, and relieve the pressure on a property owner to sell and/or develop their property. Mr. McReynolds then discussed the pros and cons of the program pertaining to York County as follows:

Pros:

- Reestablishing forestry and open space could help owners "afford" to keep land and discourage development. If such land is zoned residential, this supports growth management policies.
- Making it economically feasible for owners to hold land in forestry and open space use, even if temporary, helps to promote objectives of open space and natural area preservation.

Cons:

- Reestablishment could result in a revenue loss of about \$598,000 based on 2002 assessments of potentially eligible properties.
- 81 percent of the estimated benefit would accrue to about seven corporate/commercial entities. As such, there would be a subsidy by the majority of County residents to benefit very few.
- A large portion of the potentially eligible forestry land is zoned for commercial use, and discouraging its development is counter to economic development objectives.

- Market forces and demand play a much greater role than ownership in when land will develop. Availability of the land use program does not guarantee property will not develop when market forces dictate.
- Land use is not an effective tool for long-term preservation of forest land or open space, but instead is merely an opportunity for a few landowners to defer, and after five years avoid, tax liability on property that will inevitably develop for the purposes identified in the Comprehensive Plan.

Mr. McReynolds then discussed why the previous Board decided to eliminate the forestry and open space categories from the Land Use Program, stating:

- The County has significant forest and open spaces that will likely never be developed.
- A majority of the land in these categories is located in prime areas zoned for economic development..
- A vast majority of the citizenry are providing subsidy to a very few.

Discussion followed on the map provided for the Board's information in delineating the areas in the County that are in the land use program, and clarification was provided concerning information contained in the County Administrator's memorandum.

Mr. Shepperd asked why it was important that, in terms of cost to York County, 73 percent of the taxes saved went to major landowners.

Mr. McReynolds indicated it is because being in the Land Use Program is not a deterrent to the major landowners to keep them from developing their properties if the market is right to do so.

Mr. Zaremba stated he looked at it from the perspective that the citizens of York County are paying \$376,000 a year to subsidize this program to the benefit of 15 landowners, and most of these 15 landowners are very wealthy.

Mr. Burgett stated it was also fair to say that most of the 15 listed properties are for sale.

Mr. Shepperd stated he felt the information package provided to the Board of Supervisors was very good and thorough, and he commended the staff for the fine work. He stated he saw the issue coming down to dollars, and \$600,000 is a lot of money to the County. He indicated that what bothers him is that there is a lot of conflict with the sense that the Board wants to do something for the County, but the County also has some goals that the Land Use Program conflicts with, one of them being aggressive economic development. Mr. Shepperd stated he cares about how he sees the County and where it is going, and this is where the challenge lies. He stated he sees this issue as a reflection of the Board's attitudes in shaping the County. He indicated he feels the Land Use Plan is a good one, but it is just a plan which is modified over and over again. Mr. Shepperd stated he feels the Board needs to take action as soon as possible to control excessive growth, and it needs to control the land rather than stop growth. He stated the \$600,000 is the cost of doing business; there is no way the Board can get control of the land without a cost. The people in District 5 don't want to see the County overdeveloped, and much of the land that would qualify for forestry is in an Economic Development area. He stated the program does not mandate the landowners to be in the program. The County is giving them the opportunity to participate, and it gives a more steady approach to control growth in the County. Mr. Shepperd stated the Board says in its Land Use Plan that it cares about the environment and how it is used in York County. He proposed that the Board approach its state representatives and have them change the law to make it more inclusive to owners of smaller parcels. He also proposed that the Board ask staff to create a resolution to carry to a public hearing addressing the issue of adding all four categories to the County's Land Use Program.

Mr. Zaremba indicated he had mixed emotions on the subject, noting that when it first came up he voted "No" when the Board wanted to do away with the open space and forestry categories. Since that time he noted he had had the benefit of a superb read-ahead package from the staff that summarized the highlights of the program and its purpose. Mr. Zaremba assured Mr. Shepperd and the citizens that each of the Board members is very concerned about green space

and preserving the natural beauty of York County. He stated the issue of managed growth has been on the table for many years, and many smart people have wrestled with the issue, and the one sure thing is that development will occur whether the Board likes it or not. The important fact is that it be good development that takes place. He indicated the Board's better tool for good development was through the County's zoning ordinance, that having forestry and open space categories in the Land Use Program simply delayed the time when a landowner would sell his property. Mr. Zaremba noted that those landowners who wish to conserve their properties can convey conservation easements to the County or to the Conservancy which truly wants to preserve the land from development. He indicated that looking at the issue objectively he had a problem with giving the large landowner a tax break when the landowner is going to sell when the market is right. He also noted the Board of Supervisors has the opportunity to purchase properties to preserve them as it has done in Yorktown. Mr. Zaremba stated he did not feel it necessary to go to the public to ask them to tell the Board how to do its job when it is so obvious what needs to be done.

Mrs. Noll agreed with Mr. Zaremba, stating the conservation easement is an excellent way to go if a property owner is sincere about wanting to conserve his property from development.

Mr. Burgett stated there were many statements made by Mr. Shepperd that are already on the books. He stated the growth in York County is capped at 80,000, down from the original 135,000. He indicated he did not feel there are that many parcels in District 5 that would qualify for the Land Use Program. He stated Mr. Zaremba made a very valid point in that if these landowners are serious about preserving their properties, they need to make a commitment. He indicated the Land Use Program does not affect development—the market will drive development. Mr. Burgett stated he felt the Board was on the right track, and the actions already in place will protect the environment.

Chairman Wiggins stated he was in Mr. Zaremba's corner when the previous Board removed open space and forestry from the program; but he didn't have the information the Board had, and he has since changed his mind. He stated the County is blessed with so much green area and 207 miles of waterfront. He noted the importance of getting sewer to the waterfront properties so that the waterways will not become polluted.

YORK HALL USE AND FURNISHING

Mr. McReynolds stated the staff has continued to pursue uses and activities for York Hall, and Mr. Carter would provide the Board with information on a new proposal by the Celebrate Yorktown Committee.

Mr. J. Mark Carter, Planning and Zoning Manager, stated the staff was very excited about the Celebrate Yorktown Committee (CYC) and its ideas for the use of the Gallery space in York Hall. He stated the Committee would like to do the same type of art display they did at Christmas but on a recurring basis. The Committee's proposal is to coordinate the recruitment of artists and staff the Gallery with volunteers to oversee their art displays and activities while maintaining the County's ability to conduct receptions and such as it has in the past. Staff sees this not only as a potential visitor attraction, but also as an opportunity to address the staffing issue in implementing some of the other plans that have been proposed for York Hall use. Mr. Carter stated it would also be a good time to move forward with the Gift Shop Sampler with the CYC overseeing the activities. He stated it was a very positive visitor opportunity for this end of Main Street.

Mrs. Noll expressed her delight with this opportunity to open up the Gallery to visitors. She asked if Mr. Carter was planning on discussing with the Board the designs he placed in the Board's briefing paper.

Mr. Carter stated he would like to talk about the Gift Shop Sampler area, and indicated the CYC proposal would allow the visitor information activity to be located out of the entrance area. He stated if the CYC oversees the activity, the County can accomplish everything in the Gift Shop area. Mr. Carter proposed that staff move forward with plans for the Gift Shop Sampler and the art gallery proposal and look at the information desk proposal at a later time if demand warrants it.

Mr. Burgett asked about being in competition with Nancy Thomas, On the Hill, and the Watermen's Museum, as well as the plans for cleanup and utilities for the building.

Mr. Carter stated this would be a County operation of the art gallery with the CYC volunteering to staff it and organize it. In that respect, staff did not look at it as competing with other businesses in town but instead as providing another visitor attraction.

Mr. Burgett stated if Sharon Owen was in charge of the activity, it will make money. He stated she is outstanding at this sort of function. He then asked if there will be any offset—will the money from this fund other things.

Mr. Carter indicated the CYC is a committee of the Yorktown Foundation, and by charter the Foundation's mission is to do things that promote Yorktown and put the money back into activities in Yorktown.

Mr. Zaremba asked what the cost to the County will be on this project.

Mr. Carter stated for the Gallery space the cost would be a telephone and some sort of portable display system that needs to be designed. The Gift Shop Sampler cost is approximately \$27,000 to be funded through the Tourism/Lodging tax. He displayed for the Board a conceptual drawing for the Gift Shop Sampler.

Discussion followed on activities to take place in the Gallery under the CYC proposal.

Mr. Zaremba reminded the Board that about four years ago about \$2.5 million was put into York Hall to refurbish it, and as construction took place the citizens were surveyed in terms of what they wanted to see happen with the building and how it would be used. The results suggested that the building should also be used for cultural events and events that would bring a lot of life to the building for the citizens and the tourists. Since that time there has been virtually no other use of the building other than use by the boards and commissions of the County who meet here. He questioned whether or not the CYC will be able to sustain such an activity during the year. He asked that the CYC keep records as to the traffic the activity draws. Mr. Zaremba applauded the effort of the CYC to undertake this endeavor.

Mrs. Anne B. Smith, Director of Community Services, indicated this activity is one piece of a program that is evolving. She noted there wouldn't be any traffic in the building on some days, but as the activity grows it will be successful. She stated she feels there are small performances that could take place in the building, and the Board has agreed to add an Events Coordinator to the staff. Mrs. Smith stated that staff position is expected to work with the CYC and pursue other opportunities to develop activities for York Hall.

Mr. Shepperd asked where the funding was coming from for this activity.

Mr. Carter noted the funding will come from the 3 increment percent of the 5 percent lodging tax that has to be used for tourism or tourism-related activities.

Mr. Shepperd asked what happens if the County doesn't use the money.

Mr. Carter indicated it stays in the bank—it cannot be used for any other purpose.

Mr. Shepperd noted he asked these questions to make sure the citizens understand about the 3 percent of the lodging tax that has to be used for tourism purposes. He stated he feels the CYC proposal and the Gift Shop Sampler are a great use for this funding.

Chairman Wiggins expressed his full agreement with Mr. Shepperd.

Mr. Carter noted that the proposal calls for the building to be open six days a week, with Monday as the off day. On the other days, he stated the CYC thinks it has enough interest with artists to have rotating exhibits over the course of six months that they already have commitments for. He stated there would be new exhibits to see on a regular basis. He stated the CYC also just informed him that they have lined up a story teller for April 28 to present a program in the upstairs meeting room.

Mr. Zaremba stated there must be some incentive for an artist to bring his work to York Hall, and he asked if the artists could sell their work.

Mr. Carter stated the main incentive for the artist is exposure for his work. The CYC would conduct a transaction for an artist if someone wished to purchase a piece of artwork on display; whether that would involve any kind of donation to the CYC would be between the CYC and the artist. Mr. Carter further stated that the Gift Shop Sampler is not a gift shop. It is a static display that will feature examples from Yorktown shops and businesses.

By unanimous consensus, the Board directed staff to proceed with the Celebrate Yorktown Committee proposal and the plans for the Gift Shop Sampler.

Mr. Carter stated there was one other issue dealing with York Hall, and that was its furnishing. He stated that at the present time when an event takes place in the Gallery, any tables and chairs needed have to be rented. He stated that staff was seeking the Board's permission to expend \$7,000 out of the Contingency Reserve to purchase tables and chairs to furnish the Gallery.

Mr. Zaremba asked staff to insure that whatever is purchased is impervious to food and drink spills.

By unanimous consensus, the Board approved the expenditure of \$7,000 from the Contingency Reserve for the purchase of tables and chairs for the Gallery in York Hall.

SEWER RATES

Mr. McReynolds stated that at a previous meeting the Board indicated it would like staff to look at a way of transitioning the increase in the sewer rates so as not to coincide with the years the property assessments take place.

Mr. John Hudgins, Director of Environmental and Development Services, made a brief presentation stating that on December 11 when staff briefed the Board on the Utilities Capital Plan, the Board asked staff to look at a three-year revenue plan to get the County on the off-year from the assessments. He discussed the model elements used in determining the projected rate, and staff came up with the proposed rate of \$34.50. He stated the current rate is \$31.50 which was established in 1993. Mr. Hudgins stated that during the briefing in December, the anticipated rate was \$33.50, with a step up to \$35.00 in 2004-5. He indicated if the County starts at \$34.50 in July of 2002, the funding will carry the program through with no anticipated increases for several years.

Mr. Shepperd stated that in terms of today's dollars, the \$34.50 rate is actually a better deal than in 1993. He stated he felt it was a very fair rate.

Mr. Zaremba asked if back in 1993 there was a surplus generated and, if so, at what year did the gap close where it became a deficit.

Mr. McReynolds explained that the rate review has taken place each year, and last year staff came up with something slightly over \$31.50. He stated it wasn't far enough over to justify a rate increase at that time. He spoke of the factors impacting on the rate such as the County used to have a much smaller system with fewer users. As the County has added users, it has become more efficient, which is why the County has been able to maintain the current rate. Now an increase is needed; and rather than doing it in \$.50 increments, the average of \$34.50 will carry the county through several years.

Discussion followed concerning maintenance costs for the County's water system.

By consensus, the Board directed staff to proceed with the \$34.50 sewer rate.

CLOSED MEETING. At 7:20 p.m. Mr. Zaremba moved that the Board convene in Closed Meeting pursuant to Section 2.2-3711(a) of the Code of Virginia pertaining to appointments to Boards and Commissions.

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On roll call, the vote was:

Yea: (5) Zaremba, Noll, Burgett, Shepperd, Wiggins
Nay: (0)

Meeting Reconvened. At 7:45 p.m. the meeting was reconvened in open session by order of the Chair.

Mrs. Noll moved the adoption of proposed Resolution SR-1 that reads:

A RESOLUTION TO CERTIFY COMPLIANCE WITH THE FREE-
DOM OF INFORMATION ACT REGARDING MEETING IN CLOSED
SESSION

WHEREAS, the York County Board of Supervisors has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3711 of the Code of Virginia requires a certification by the York County Board of Supervisors that such closed meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 12th day of February, 2002, hereby certifies that, to the best of each member's knowledge, (1) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (2) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed, or considered by the York County Board of Supervisors.

On roll call, the vote was:

Yea: (5) Noll, Burgett, Shepperd, Zaremba, Wiggins
Nay: (0)

RECOMMENDATIONS FOR APPOINTMENTS TO THE YORK COUNTY BOARD OF EQUALIZATION

Mr. Shepperd moved the adoption of proposed Resolution R02-42 that reads:

A RESOLUTION REQUESTING THE JUDGE OF THE CIRCUIT COURT TO AP-
POINT TWO MEMBERS TO THE YORK COUNTY BOARD OF EQUALIZATION

WHEREAS, the term of Donald J. Keenan as a member of the York County Board of Equalization will expire on March 31, 2002, and he is eligible and willing for reappointment; and

WHEREAS, Mr. Jeffrey C. Trimble, who was appointed June 21, 2001, has resigned his position, thereby creating a vacancy on the board;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 12th day of February, 2002, that the Judge of the Circuit Court be, and he is hereby, requested to reappoint Donald J. Keenan to the York County Board of Equalization of Real Estate Assessments as provided by Section 58.1-3373 of the Code of Virginia for a term of three years, such term to commence April 1, 2002, and expire March 31, 2005.

BE IT FURTHER RESOLVED that Henry J. Bryan, III, be, and hereby is, recommended to fill the unexpired term of Jeffrey C. Trimble on the York County Board of Equalization of Real Estate Assessments, such term to commence immediately and expire March 31, 2004.

On roll call, the vote was:

Yea: (5) Burgett, Shepperd, Zaremba, Noll, Wiggins
Nay: (0)

Meeting Adjourned. At 7:49 p.m. Mr. Zaremba moved that the meeting be adjourned to 5:30 p.m., Tuesday, February 19, 2002, in the Kiva, York High School, for the purpose of conducting a joint meeting with the York County School Board.

On roll call, the vote was:

Yea: (5) Shepperd, Zaremba, Noll, Burgett, Wiggins
Nay: (0)

James O. McReynolds, Clerk
York County Board of Supervisors

Donald E. Wiggins, Chairman
York County Board of Supervisors